

Return Date: April 16th 2020 2:00pm

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re: Loyce Tamisi

Case No. 1-20-40388-cec  
Chapter 13

Debtor(s)  
-----X

**NOTICE OF MOTION**

**PLEASE TAKE NOTICE** that upon the annexed application of  
Loyce Tamisi, a hearing will be held before the Hon.  
Carla E. Craig, Bankruptcy Judge, to consider the motion for an Order  
granting relief as follows:

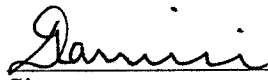
MOTION TO OBJECT AND DETERMINE THE VALIDITY OF A NOTICE  
OF MORTGAGE PAYMENT CHANGE.

PLEASE TAKE FURTHER NOTICE that objections to the granting of the proposed order must  
be served to the undersigned at least 7 days before the order is to be heard.  
If there are no objections the Court may grant and sign the order without further notice.

CLERK  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF  
NEW YORK  
2020 MAR 12 A 10:27  
RECEIVED

Date and time of hearing: April 16th 2020 2:00pm  
Location: U.S. Bankruptcy Court  
271-C Cadman Plaza East  
Brooklyn, New York 11201-1800  
Courtroom # 3529, 3rd Floor

Dated: March 12, 2020

  
Signature

Print name: LOYCE TAMISI  
Address: 1350 Pinson St  
Far Rockaway, NY 11691  
Phone: \_\_\_\_\_  
Email: ltamisi@yahoo.com

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

Case No. 1-20-40388-cec

Loyce Tamisi,

Chapter 13

Debtor.

-----X

**MOTION TO OBJECT AND DETERMINE THE VALIDITY OF A NOTICE OF MORTGAGE  
PAYMENT CHANGE**

**TO THE HON. Carla E. Craig , Bankruptcy Judge**

I Loyce Tamisi, the debtor respectfully make this application in support of my motion for the following relief to determine the validity of notice of mortgage payment change and provide the following affidavit in support of this motion as follows:

1. The debtor filed a chapter 13 petition on January 22, 2020. The debtor resides at 1350 Pinson st Far Rockaway, NY 11691 and DLJ Mortgage capital has a pre-petition foreclosure Judgement Lien on the said property.

2. On 03/11/20 a Notice of Mortgage Payment Change was filed by Sophia Watkins on behalf of Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust. The form included a Selene letter attachment that includes the current monthly payment as \$4893.04 and a new rate effective 04/01/20 to be \$3809.72. Yet the form 410s includes a current payment of \$3629.15. This is a contradiction.

3. The debtor denies owing any debt to the Wilmington Savings Fund Society, FSB d/ba Christiana Trust not individually but as a Trustee for Pretium Mortgage Acquisition Trust ("the creditor") because I did not sign any mortgage or note with the creditor on August 14th 2006. Creditor also fails to attach any proof of said security interest including any breakdown of amounts owed.

4. Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust is listed as a non priority unsecured disputed debt in the debtor's schedule E/F.

5. The debtor's residence at 1350 Pinson St Far Rockaway, NY 11691 was scheduled for an auction sale on 01/24/20. Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust had no control over the foreclosure and sale proceedings and was unable to stop this sale to enable verification of their alleged secure mortgage thus casting doubt on the credibility and validity of their debt.

6. Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust is not, and cannot be deemed to be, a "secured creditor" pursuant to Rule 3001 or 11 USC § 101(10) or (14). (FRBP Rule 3001; 11 USC § 101(10) and (14)). Debtor OBJECTS to the claim that the creditor is a secured creditor based upon these facts. In order to be a "secured creditor", the creditor has to attach some proof of such security. Creditor lacks any security attached to be deemed a secured creditor therefore lacking any standing.

7. Rule 3002.1(b)(2) provides that a party in interest, in response to a Notice of Payment Change, may file a motion to determine the validity of a payment change. Form 410S should be used by a creditor whose claim is secured by the debtor's principal residence to meet the creditor's obligations under Bankruptcy Rule 3002.1. Debtor denies owing any debt to Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust and sent a dispute and debt validation letter to Selene Finance on 01/07/20 denying owing this debt. This letter is included as exhibit B on the debtors' Opposition to Wilmington Savings Fund FSB, objection to confirmation of chapter 13 plan Case 1-20-40388-cec Doc 26 Filed 03/04/20 Entered 03/04/20 11:51:19.

8. The letter attachment from Selene Finance on the notice filed 03/11/20 indicates that "these amounts are based on the 6 MONTH LIBOR WSJ index, your margin, your loan balance of \$390,670.72, and your remaining loan term of 200 months." This statement is another contradiction from the debt amount previously provided by Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust in their Objection to confirmation of debtor's chapter 13 plan Case 1-20-40388-cec Doc 22 Filed 02/25/20 Entered 02/25/20 16:22:25.

9. In any proceeding for a determination under Rule 3002.1(b)(2), Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust has the burden of proof to establish that the payment change is required even though the motion is filed by the debtor or other party in interest. This is because Rule 3002.1(d) provides that a payment change notice, which is the subject of the dispute, is not entitled to a presumption of validity under Rule 3001(f).

WHEREFORE, applicant humbly requests the court to determine the validity of said notice and to deny it in its entirety.

Dated: 03/12/2020



Loyce Tamisi (debtor)

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re: Loyce Tamisi

Case No. 1-20-40388-cec  
Chapter 13

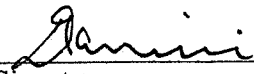
Debtor(s)  
-----X

**CERTIFICATE OF SERVICE**

The undersigned certifies that on 03/12/2020, a copy of the annexed Motion was served by depositing same, enclosed in a properly addressed postage-paid envelope, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York, upon ***[below specify the name and mailing address of each party served]:***

- Trustee Michael J. Macco 2950 Express Drive South Suite 109 Islandia, NY 11749
- Office of the United States Trustee Eastern District of NY (Brooklyn Office) U.S. Federal Office Building 201 Varick St, Suite 1006 New York, NY 10014
- Selene Finance LP Attn Customer Service PO Box 421517 Houston TX 77242-4239
- Wilmington Savings Fund Society trustee for Pretium Mortgage Acquisition Trust 500 Delaware Ave 11th Floor Wilmington DE 19801
- Stephani A. Schendlinger RAS Boriskin, LLC 900 Merchants Concourse, suite 310 Westbury, NY 11590.
- Sophia Watkins Robertson, Anschutz, Schneid & Crane LLC Authorized Agent for Secured Creditor 10700 Abbott's Bridge Road, Suite 170 Duluth, GA 30097

Dated: March 12, 2020

  
\_\_\_\_\_  
Signature  
Loyce Tamisi